



MIAMI-DADE COMMISSION ON ETHICS AND PUBLIC TRUST

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**MEMORANDUM**

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**TO:** Lorenzo Cobiella, Deputy Town Attorney  
on behalf of Miami Lakes Councilmember Luis Collazo

**FROM:** Jose Arrojo, Executive Director  
Commission on Ethics 

**SUBJECT:** INQ 20-11, Voting Conflict, Elected Official, COLA Increase for all  
Town Employees Including Voting Member's Spouse, Section 2-11.1(d)

**DATE:** February 18, 2020

**CC:** All COE Legal Staff

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Thank you for contacting the Miami-Dade Commission on Ethics and Public Trust and requesting our guidance regarding the following proposed transaction.

**Facts:** It is anticipated that the Council for the Town of Miami Lakes will be considering an across the board pay increase for all Town employees. The Town employs approximately sixty persons. You advise that all of the Town's employees will be similarly affected by the Council's vote.

Councilman Collazo's spouse is a Town employee.

**Issue:** Does an elected official whose spouse is a Town employee, have a voting conflict that precludes him from voting or otherwise participating in a matter relating to an across the board pay increase for all Town employees.

**Discussion:** Section 2-11.1(a) of the Miami-Dade Conflict of Interest and Code of Ethics Ordinance (Ethics Code), provides that the Ethics Code sets minimum standards of ethical conduct and that its provisions are made applicable to officials and employees of county government and to all municipal governments within Miami-Dade County, including the Town of Miami Lakes.

Section 2-11.1 (d) of the Ethics Code, prohibits elected officials from voting on or participating in any matter presented, if the official *would or might, directly or indirectly, profit or be enhanced* by the action of the Town Council. This conflict voting prohibition is stricter than the state law standard codified in Section 112.3143 (1)(d), Florida Statutes, which provides that "No county, municipal or other local public officer shall vote in an

official capacity upon any measure which would inure to his or her special private gain or loss..." (INQ 14-86).

Given the enhanced conflict voting prohibition in the Ethics Code, circumstances that do not meet the State standard for a voting conflict could still create a voting conflict under the County ordinance in circumstances where an official might, directly or indirectly, profit or be enhanced by a vote. The County standard does not require a definite or measurable private gain or loss and may apply where there is a reasonable possibility or expectation of such an effect. (See RQO 15-04)

In applying the Ethics Code conflict voting prohibition, we have opined that an elected official should not vote or participate (including attendance at a workshop) in the consideration of alternative code enforcement system because the official's spouse was the municipal code compliance director. Therefore, the reorganization of the code compliance department, including the use of special masters, could impact the spouse's job duties, work performance measurements, and salary and thus the elected official would or might directly or indirectly be enhanced by the vote. (INQ 13-92)

We similarly opined that an elected official should not vote or participate on the selection of a city manager because the official's spouse was employed by the city as an at-will department director, would report directly to the manager, and most if not all of her employment terms could be impacted by the newly selected city manager. Thus, the elected official would or might directly or indirectly be enhanced by the vote. (INQ 18-251)

However, the rationale underlying those opinions focused on the unique impact that the matter under consideration could have on the elected official's family member and the corresponding possible enhancement, direct or indirect, on the voting official. The family members in those two informal opinions were in a class of one that could be singularly and significantly impacted by the vote and the spousal elected official could likewise be affected.

Conversely, we have opined that a city elected official, whose son is in a collective bargaining unit of over two hundred rank and file firefighters, did not have a prohibited voting conflict with regards to a bargaining impasse between the firefighter's union and the city. In that case, we opined that there was no likelihood that the voting member would be personally or professionally be enhanced by the item under consideration because the item would not confer some special or unique benefit on the firefighter son. (INQ 19-01)

While not entirely consistent with the facts underlying your request for guidance, we also opined that a county elected official could vote on the ratification of a collective bargaining agreement between the county and a large bargaining unit comprised of medical professionals employed by a public hospital. The county official's daughter was employed by the same public hospital as a registered nurse case manager, albeit not in the bargaining unit covered by the agreement. (INQ 18-256)

We concluded in that informal opinion that the item under consideration did not present any likelihood that the elected official would, personally or professionally, be enhanced by

the vote because the item would not confer a unique or special benefit on the nurse daughter.

Likewise, in this case, the voting member's spouse would be impacted by the vote on the across the board raise for all Town employees, but not in a special or unique manner different from all other employees.

Opinion: The proposed vote concerns a matter relating to an across the board pay increase for all Town employees. I do not believe that Councilman Collazo will personally or professionally be enhanced by the item under consideration because the item will not confer some special or unique benefit on his spouse. Rather, whatever benefit she receives will be consistent with the benefits received by the entire class of Town employees. Therefore, I do not believe that the Council member is prohibited under Section 2-11.1(d) from participating or voting on this item.

Of course, the Ethics Code provides the minimum standard for conduct for municipal officials.

This opinion is limited to the facts as you presented them to the Commission on Ethics and is limited to an interpretation of the County Ethics Code only and is not intended to interpret state laws. Questions regarding state ethics laws should be addressed to the Florida Commission on Ethics.

INQs are informal ethics opinions provided by the legal staff after being reviewed and approved by the Executive Director. INQs deal with opinions previously addressed in public session by the Ethics Commission or within the plain meaning of the County Ethics Code. RQOs are opinions provided by the Miami-Dade Commission on Ethics and Public Trust when the subject matter is of great public importance or where there is insufficient precedent. While these are informal opinions, covered parties that act contrary to the opinion may be referred to the Advocate for preliminary review or investigation and may be subject to a formal Complaint filed with the Commission on Ethics and Public Trust.